

AMENDED IN ASSEMBLY APRIL 6, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1261**

**Introduced by Assembly Member Leno**

February 22, 2005

---

An act to amend Sections 48853, 48853.5, 48859, and 49069.5 of the Education Code, and to amend ~~Section 319~~ *Sections 319, 361, and 391* of the Welfare and Institutions Code, relating to foster children.

LEGISLATIVE COUNSEL'S DIGEST

AB 1261, as amended, Leno. Foster children: education.

Existing law requires a pupil placed in a licensed children's institution or foster family home to attend programs operated by the local educational agency, unless one of certain circumstances applies.

This bill would revise the applicable circumstances.

The bill would also define "local educational agency" for these purposes.

Existing law provides that, if a school placement dispute arises, a foster child has the right to remain in his or her school of origin pending resolution of the dispute.

~~This bill would provide that the dispute shall be resolved in accordance with the existing dispute resolution process available to any pupil served by the local educational agency~~ *require local educational agencies to have in place a process to promptly resolve disputes relating to the school placement of foster children and would require a written explanation of the school's decision relating to school placement or enrollment, as specified, to be provided if a parent, guardian, or person holding the right to make educational decisions for the pupil disputes that decision. To the extent this bill*

*would impose additional duties on local educational agencies, the bill would impose a state-mandated local program.*

Existing law provides that “school of origin” means the school that the foster child attended when permanently housed or the school in which the foster child was last enrolled. Existing law requires the educational liaison for foster children to determine, as provided, the school that shall be deemed the school of origin for a foster child if, among other things, there is some other school that the foster child attended with which the foster child is connected.

This bill would additionally require that the foster child attended that connected school in the past 15 months.

Existing law provides that the proper and timely transfer between schools of pupils in foster care is the responsibility of both the local educational agency and the county placing agency and imposes various requirements relating to the transfer of those pupils between schools.

This bill would define “pupil in foster care” for these purposes.

Existing law sets forth the circumstances under which a minor may be adjudged a dependent child of the juvenile court, and establishes procedures to determine temporary placement of a dependent child.

This bill would authorize the court, at the initial hearing or anytime thereafter up until the time that the minor is adjudged a dependent child of the court or a finding is made dismissing the petition, to temporarily limit the right of the parent or guardian to make educational decisions for the child and to temporarily appoint a responsible adult to make educational decisions for the child if all of specified conditions are found. *The bill would also authorize the court to make educational decisions for the child under specified circumstances.*

*Existing law authorizes a juvenile court to limit the right of a parent or guardian to make educational decisions for his or her child that is adjudged a dependent child of the court and requires the court at the same time to appoint a responsible adult to make educational decisions for the child until one of specified circumstances occurs.*

*This bill would authorize the court to make educational decisions for the child if the court cannot identify a responsible adult to make educational decisions for the child, the appointment of a surrogate parent is not warranted, and there is no foster parent to exercise the appropriate authority.*

*Existing law requires the county welfare department, at any hearing to terminate jurisdiction over a dependent child who has reached the age of majority, to, among other things, submit a report verifying that specified documents, where applicable, have been provided to the child.*

*This bill would include among those documents a health and education summary.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 48853 of the Education Code is  
2 amended to read:  
3 48853. (a) A pupil placed in a licensed children's institution  
4 or foster family home shall attend programs operated by the local  
5 educational agency, unless one of the following applies:  
6 (1) The pupil is entitled to remain in his or her school of origin  
7 pursuant to paragraph (1) of subdivision (d) of Section 48853.5.  
8 (2) The pupil has an individualized education program  
9 requiring placement in a nonpublic, nonsectarian school or  
10 agency, or in another local educational agency.  
11 (3) The parent or guardian, or other person holding the right to  
12 make educational decisions for the pupil pursuant to Section 361  
13 or 727 of the Welfare and Institutions Code or Section 56055,  
14 determines that it is in the best interest of the pupil to be placed  
15 in another educational program.  
16 (b) Before any decision is made to place a pupil in a juvenile  
17 court school as defined by Section 48645.1, *a community school*  
18 *as described in Sections 1981 and 48660, or other alternative*  
19 *educational setting*, the parent or guardian, or person holding the  
20 right to make educational decisions for the pupil pursuant to

1 Section 361 or 726 of the Welfare and Institutions Code or  
2 Section 56055, shall first consider placement in the regular  
3 public school.

4 ~~(e) If any dispute arises as to the school placement of a pupil~~  
5 ~~subject to this section, the pupil has the right to remain in his or~~  
6 ~~her school of origin, as defined in subdivision (c) of Section~~  
7 ~~48853.5, pending resolution of the dispute. The dispute shall be~~  
8 ~~resolved in accordance with the existing dispute resolution~~  
9 ~~process available to any pupil served by the local educational~~  
10 ~~agency.~~

11 *(c) (1) A local educational agency shall have in place a*  
12 *process to promptly resolve disputes relating to the school*  
13 *placement of a pupil subject to this section.*

14 *(2) A written explanation of the school's decision shall be*  
15 *provided if a parent, guardian, or person holding the right to*  
16 *make educational decisions for the pupil disputes a school*  
17 *placement or enrollment decision. The written explanation shall*  
18 *include a discussion of the right of the parent, guardian, or*  
19 *person holding the right to make educational decisions for the*  
20 *pupil to appeal the decision.*

21 *(3) If any dispute arises as to the school placement of a pupil*  
22 *subject to this section, the pupil has the right to remain in his or*  
23 *her school of origin, as defined in subdivision (e) of Section*  
24 *48853.5, pending resolution of the dispute.*

25 *(4) The school shall refer the parent, guardian, or person*  
26 *holding the right to make educational decisions for the pupil to*  
27 *the educational liaison described in subdivision (b) of Section*  
28 *48853.5 to carry out the dispute resolution process as*  
29 *expeditiously as possible.*

30 (d) This section does not supersede other laws that govern  
31 pupil expulsion.

32 (e) This section does not supersede any other law governing  
33 the educational placement in a juvenile court school, as defined  
34 by Section 48645.1, of a pupil detained in a county juvenile hall,  
35 or committed to a county juvenile ranch, camp, forestry camp, or  
36 regional facility.

37 (f) Foster children living in emergency shelters, as referenced  
38 in *the federal McKinney-Vento Homeless Assistance Act* (42  
39 U.S.C. Sec. 11431 et seq.), may receive educational services at

1 the emergency shelter as necessary for short periods of time for  
2 either of the following reasons:

3 (1) For health and safety emergencies.

4 (2) To provide temporary, special, and supplementary services  
5 to meet the child's unique needs if a decision regarding whether  
6 it is in the child's best interest to attend the school of origin  
7 cannot be made promptly, it is not practical to transport the child  
8 to the school of origin, and the child would otherwise not receive  
9 educational services.

10 The educational services may be provided at the shelter  
11 pending a determination by the person holding the right  
12 regarding the educational placement of the child.

13 (g) All educational and school placement decisions shall be  
14 made to ensure that the child is placed in the least restrictive  
15 educational programs and has access to academic resources,  
16 services, and extracurricular and enrichment activities that are  
17 available to all pupils. In all instances, educational and school  
18 placement decisions shall be based on the best interests of the  
19 child.

20 SEC. 2. Section 48853.5 of the Education Code is amended to  
21 read:

22 48853.5. (a) This section applies to any foster child who has  
23 been removed from his or her home pursuant to Section 309 of  
24 the Welfare and Institutions Code, is the subject of a petition  
25 filed under Section 300 or 602 of the Welfare and Institutions  
26 Code, or has been removed from his or her home and is the  
27 subject of a petition filed under Section 300 or 602 of the  
28 Welfare and Institutions Code.

29 (b) Each local educational agency shall designate a staff  
30 person as the educational liaison for foster children. In a school  
31 district that operates a foster children services program pursuant  
32 to Chapter 11.3 (commencing with Section 42920) of Part 24, the  
33 educational liaison shall be affiliated with the local foster  
34 children services program. The liaison shall do all of the  
35 following:

36 (1) Ensure and facilitate the proper educational placement,  
37 enrollment in school, and checkout from school of foster  
38 children.

(2) Assist foster children when transferring from one school to another or from one school district to another in ensuring proper transfer of credits, records, and grades.

(c) This section does not grant authority to the educational liaison that supersedes the authority granted under state and federal law to a parent or guardian retaining educational rights, a responsible adult appointed by the court to represent the child pursuant to Section 361 or 726 of the Welfare and Institutions Code, a surrogate parent, or a foster parent exercising the authority granted under Section 56055. The role of the educational liaison is advisory with respect to placement decisions and determination of school of origin.

(d) (1) At the initial detention or placement, or any subsequent change in placement of a foster child, the local educational agency serving the foster child shall allow the foster child to continue his or her education in the school of origin for the duration of the academic school year.

(2) The liaison, in consultation with and the agreement of the foster child and the person holding the right to make educational decisions for the foster child may, in accordance with the foster child's best interest, recommend that the foster child's right to attend the school of origin be waived and the foster child be enrolled in any public school that pupils living in the attendance area in which the foster child resides are eligible to attend.

(3) Prior to making any recommendation to move a foster child from his or her school of origin, the liaison shall provide the foster child and the person holding the right to make educational decisions for the foster child with a written explanation stating the basis for the recommendation and how this recommendation serves the foster child's best interest.

(4) (A) If the liaison in consultation with the foster child and the person holding the right to make educational decisions for the foster child agree that the best interests of the foster child would be served by his or her transfer to a school other than the school of origin, the foster child shall immediately be enrolled in the new school.

(B) The new school shall immediately enroll the foster child even if the foster child *has outstanding fees, fines, textbooks, or other items or moneys due to the school last attended* or is unable to produce records or clothing normally required for enrollment,

1 such as previous academic records, medical records, proof of  
2 residency, other documentation, or school uniforms.

3 (C) The liaison for the new school shall, within two business  
4 days of the foster child's request for enrollment, contact the  
5 school last attended by the foster child to obtain all academic and  
6 other records. *All required records shall be provided to the new*  
7 *school regardless of any outstanding fees, fines, textbooks, or*  
8 *other items or moneys owed to the school last attended.* The  
9 school liaison for the school last attended shall provide all  
10 records to the new school within two business days of receiving  
11 the request.

12 (5) If any dispute arises regarding the request of a foster child  
13 to remain in the school of origin, the foster child has the right to  
14 remain in the school of origin pending resolution of the dispute.  
15 The dispute shall be resolved in accordance with the existing  
16 dispute resolution process available to any pupil served by the  
17 local educational agency.

18 (6) The local educational agency and the county placing  
19 agency are encouraged to collaborate to ensure maximum  
20 utilization of available federal moneys, explore public-private  
21 partnerships, and access any other funding sources to promote  
22 the well-being of foster children through educational stability.

23 (e) For purposes of this section, "school of origin" means the  
24 school that the foster child attended when permanently housed or  
25 the school in which the foster child was last enrolled. If the  
26 school the foster child attended when permanently housed is  
27 different from the school in which the foster child was last  
28 enrolled, or if there is some other school that the foster child  
29 attended with which the foster child is connected and which the  
30 foster child attended within the immediately preceding 15  
31 months, the liaison, in consultation with and the agreement of the  
32 foster child and the person holding the right to make educational  
33 decisions for the foster child, shall determine, in the best interest  
34 of the foster child, the school that shall be deemed the school of  
35 origin.

36 (f) This section does not supersede other law governing the  
37 educational placements in juvenile court schools, as defined by  
38 Section 48645.1, by the juvenile court under Section 602 of the  
39 Welfare and Institutions Code.

SEC. 3. Section 48859 of the Education Code is amended to read:

48859. For purposes of this chapter, the following terms have the following meanings:

(a) “County placing agency” means the county social-service services department or county probation department.

(b) “Educational authority” means an entity designated to represent the interests of a child for educational and related services.

~~(c) “Local educational agency” means a public board of education or other public authority legally constituted within the state for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of this state, or for a combination of school districts or counties as are recognized in this state as an administrative agency for its public elementary or secondary schools.~~

*(c) “Local educational agency” means a school district, a county office of education, a charter school participating as a member of a special education local plan area, or a special education local plan area.*

SEC. 4. Section 49069.5 of the Education Code is amended to read:

49069.5. (a) The Legislature finds and declares that the mobility of pupils in foster care often disrupts their educational experience. The Legislature also finds that efficient transfer procedures and transfer of pupil records is a critical factor in the swift placement of foster children in educational settings.

(b) The proper and timely transfer between schools of pupils in foster care is the responsibility of both the local educational agency and the county placing agency.

(c) As soon as the county placing agency becomes aware of the need to transfer a pupil in foster care out of his or her current school, the county placing agency shall contact the appropriate person at the local educational agency of the pupil. The county placing agency shall notify the local educational agency of the date that the pupil will be leaving the school and request that the pupil be transferred out.



1 (d) Upon receiving a transfer request from a county placing  
2 agency, the local educational agency shall, within two business  
3 days, transfer the pupil out of school and deliver the educational  
4 information and records of the pupil to the next educational  
5 placement.

6 (e) As part of the transfer process described under  
7 subdivisions (c) and (d), the local educational agency shall  
8 compile the complete educational record of the pupil including a  
9 determination of seat time, full or partial credits earned, current  
10 classes and grades, immunization and other records, and, if  
11 applicable, a copy of the pupil's plan adopted pursuant to Section  
12 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794  
13 et seq.) or individualized education program adopted pursuant to  
14 the federal Individuals with Disabilities Education Act (20  
15 U.S.C. Sec. 1400 et seq.).

16 (f) The local educational agency shall assign the duties listed  
17 in this section to a person competent to handle the transfer  
18 procedure and aware of the specific educational recordkeeping  
19 needs of homeless, foster, and other transient children who  
20 transfer between schools.

21 (g) The local educational agency shall ensure that if the pupil  
22 in foster care is absent from school due to a decision to change  
23 the placement of a pupil made by a court or placing agency, the  
24 grades and credits of the pupil will be calculated as of the date  
25 the pupil left school, and no lowering of grades will occur as a  
26 result of the absence of the pupil under these circumstances.

27 (h) The local educational agency shall ensure that if the pupil  
28 in foster care is absent from school due to a verified court  
29 appearance or related court ordered activity, no lowering of his or  
30 her grades will occur as a result of the absence of the pupil under  
31 these circumstances.

32 (i) For the purposes of this section, "pupil in foster care"  
33 means any child who has been removed from his or her home  
34 pursuant to Section 309 of the Welfare and Institutions Code, is  
35 the subject of a petition filed under Section 300 or 602 of the  
36 Welfare and Institutions Code, or has been removed from his or  
37 her home and is the subject of a petition filed under Section 300  
38 or 602 of the Welfare and Institutions Code.

39 SEC. 5. Section 319 of the Welfare and Institutions Code is  
40 amended to read:

1 319. (a) At the initial petition hearing, the court shall  
2 examine the child's parents, guardians, or other persons having  
3 relevant knowledge and hear the relevant evidence as the child,  
4 the child's parents or guardians, the petitioner, or their counsel  
5 desires to present. The court may examine the child, as provided  
6 in Section 350.

7 (b) The social worker shall report to the court on the reasons  
8 why the child has been removed from the parent's custody; the  
9 need, if any, for continued detention; the available services and  
10 the referral methods to those services that could facilitate the  
11 return of the child to the custody of the child's parents or  
12 guardians; and whether there are any relatives who are able and  
13 willing to take temporary custody of the child. The court shall  
14 order the release of the child from custody unless a prima facie  
15 showing has been made that the child comes within Section 300,  
16 the court finds that continuance in the parent's or guardian's  
17 home is contrary to the child's welfare, and any of the following  
18 circumstances exist:

19 (1) There is a substantial danger to the physical health of the  
20 child or the child is suffering severe emotional damage, and there  
21 are no reasonable means by which the child's physical or  
22 emotional health may be protected without removing the child  
23 from the ~~parents' or guardians'~~ *parent's or guardian's* physical  
24 custody.

25 (2) There is substantial evidence that a parent, guardian, or  
26 custodian of the child is likely to flee the jurisdiction of the court.

27 (3) The child has left a placement in which he or she was  
28 placed by the juvenile court.

29 (4) The child indicates an unwillingness to return home, if the  
30 child has been physically or sexually abused by a person residing  
31 in the home.

32 (c) If the matter is continued pursuant to Section 322 or for  
33 any other reason, the court shall find that the continuance of the  
34 child in the parent's or guardian's home is contrary to the child's  
35 welfare at the initial petition hearing or order the release of the  
36 child from custody.

37 (d) (1) The court shall also make a determination on the  
38 record, referencing the social worker's report or other evidence  
39 relied upon, as to whether reasonable efforts were made to  
40 prevent or eliminate the need for removal of the child from his or

1 her home, pursuant to subdivision (b) of Section 306, and  
2 whether there are available services that would prevent the need  
3 for further detention. Services to be considered for purposes of  
4 making this determination are case management, counseling,  
5 emergency shelter care, emergency in-home caretakers,  
6 out-of-home respite care, teaching and demonstrating  
7 homemakers, parenting training, transportation, and any other  
8 child welfare services authorized by the State Department of  
9 Social Services pursuant to Chapter 5 (commencing with Section  
10 16500) of Part 4 of Division 9. The court shall also review  
11 whether the social worker has considered whether a referral to  
12 public assistance services pursuant to Chapter 2 (commencing  
13 with Section 11200) and Chapter 7 (commencing with Section  
14 14000) of Part 3, Chapter 1 (commencing with Section 17000) of  
15 Part 5, and Chapter 10 (commencing with Section 18900) of Part  
16 6 of Division 9 would have eliminated the need to take temporary  
17 custody of the child or would prevent the need for further  
18 detention.

19 (2) If the child can be returned to the custody of his or her  
20 parent or guardian through the provision of those services, the  
21 court shall place the child with his or her parent or guardian and  
22 order that the services shall be provided. If the child cannot be  
23 returned to the custody of his or her parent or guardian, the court  
24 shall determine if there is a relative who is able and willing to  
25 care for the child, and has been assessed pursuant to paragraph  
26 (1) of subdivision (d) of Section 309.

27 (e) Whenever a court orders a child detained, the court shall  
28 state the facts on which the decision is based, shall specify why  
29 the initial removal was necessary, shall reference the social  
30 worker's report or other evidence relied upon to make its  
31 determination whether continuance in the home of the parent or  
32 legal guardian in contrary to the child's welfare, shall order  
33 temporary placement and care of the child to be vested with the  
34 county child welfare department pending the hearing held  
35 pursuant to Section 355 or further order of the court, and shall  
36 order services to be provided as soon as possible to reunify the  
37 child and his or her family if appropriate.

38 (f) When the child is not released from custody, the court may  
39 order that the child shall be placed in the assessed home of a  
40 relative, in an emergency shelter or other suitable licensed place,

1 in a place exempt from licensure designated by the juvenile  
2 court, or in the assessed home of a nonrelative extended family  
3 member as defined in Section 362.7 for a period not to exceed 15  
4 judicial days.

5 As used in this section, “relative” means an adult who is  
6 related to the child by blood, adoption, or affinity within the fifth  
7 degree of kinship, including stepparents, stepsiblings, and all  
8 relatives whose status is preceded by the words “great,”  
9 “great-great,” or “grand,” or the spouse of any of these persons,  
10 even if the marriage was terminated by death or dissolution.  
11 However, only the following relatives shall be given preferential  
12 consideration for placement of the child: an adult who is a  
13 grandparent, aunt, uncle, or sibling of the child.

14 The court shall consider the recommendations of the social  
15 worker based on the assessment pursuant to paragraph (1) of  
16 subdivision (d) of Section 309 of the relative’s home, including  
17 the results of a criminal records check and prior child abuse  
18 allegations, if any, prior to ordering that the child be placed with  
19 a relative. The court shall order the parent to disclose to the  
20 social worker the names, residences, and any known identifying  
21 information of any maternal or paternal relatives of the child. The  
22 social worker shall initiate the assessment pursuant to Section  
23 361.3 of any relative to be considered for continuing placement.

24 (g) (1) At the initial hearing upon the petition filed in  
25 accordance with subdivision (c) of Rule 1406 of the California  
26 Rules of Court or anytime thereafter up until the time that the  
27 minor is adjudged a dependent child of the court or a finding is  
28 made dismissing the petition, the court may temporarily limit the  
29 right of the parent or guardian to make educational decisions for  
30 the child and temporarily appoint a responsible adult to make  
31 educational decisions for the child if all of the following  
32 conditions are found:

33 (A) The parent or guardian is unavailable, unable, or unwilling  
34 to exercise educational rights for the child.

35 (B) The county placing agency has made diligent efforts to  
36 locate and secure the participation of the parent or guardian in  
37 educational decisionmaking.

38 (C) The child’s educational needs cannot be met without the  
39 temporary appointment of a responsible adult.

1     (2) *If the court cannot identify a responsible adult to make*  
2 *educational decisions for the child and the appointment of a*  
3 *surrogate parent as defined in subdivision (a) of Section 56050*  
4 *of the Education Code is not warranted, the court may, with the*  
5 *input of any interested person, make educational decisions for*  
6 *the child.*

7     ~~(2)~~

8     (3) Any temporary appointment of a responsible adult and  
9 temporary limitation on the right of the parent or guardian to  
10 make educational decisions for the child shall be specifically  
11 addressed in the court order. Any order made under this section  
12 shall expire at the conclusion of the hearing held pursuant to  
13 Section 361 or upon dismissal of the petition. Upon the entering  
14 of disposition orders any additional needed limitation on the  
15 parent's or guardian's educational rights shall be addressed  
16 pursuant to Section 361.

17     SEC. 6. *Section 361 of the Welfare and Institutions Code is*  
18 *amended to read:*

19     361. (a) In all cases in which a minor is adjudged a  
20 dependent child of the court on the ground that the minor is a  
21 person described by Section 300, the court may limit the control  
22 to be exercised over the dependent child by any parent or  
23 guardian and shall by its order clearly and specifically set forth  
24 all those limitations. Any limitation on the right of the parent or  
25 guardian to make educational decisions for the child shall be  
26 specifically addressed in the court order. The limitations may not  
27 exceed those necessary to protect the child. If the court  
28 specifically limits the right of the parent or guardian to make  
29 educational decisions for the child, the court shall at the same  
30 time appoint a responsible adult to make educational decisions  
31 for the child until one of the following occurs:

32     (1) The minor reaches 18 years of age, unless the child  
33 chooses not to make educational decisions for himself or herself,  
34 or is deemed by the court to be incompetent.

35     (2) Another responsible adult is appointed to make educational  
36 decisions for the minor pursuant to this section.

37     (3) The right of the parent or guardian to make educational  
38 decisions for the minor is fully restored.

39     (4) A successor guardian or conservator is appointed.

(5) The child is placed into a planned permanent living arrangement pursuant to paragraph (3) of subdivision (g) of Section 366.21, Section 366.22, or Section 366.26, at which time the foster parent, relative caretaker, or nonrelative extended family member as defined in Section 362.7, has the right to represent the child in educational matters pursuant to Section 56055 of the Education Code.

An individual who would have a conflict of interest in representing the child may not be appointed to make educational decisions. For purposes of this section, “an individual who would have a conflict of interest,” means a person having any interests that might restrict or bias his or her ability to make educational decisions, including, but not limited to, those conflicts of interest prohibited by Section 1126 of the Government Code, and the receipt of compensation or attorneys’ fees for the provision of services pursuant to this section. A foster parent may not be deemed to have a conflict of interest solely because he or she receives compensation for the provision of services pursuant to this section.

If the court is unable to appoint a responsible adult to make educational decisions for the child and paragraphs (1) to (5), inclusive, do not apply, and the child has either been referred to the local educational agency for special education and related services, or has a valid individualized education program, the court shall refer the child to the local educational agency for appointment of a surrogate parent pursuant to Section 7579.5 of the Government Code.

*If the court cannot identify a responsible adult to make educational decisions for the child, the appointment of a surrogate parent as defined in subdivision (a) of Section 56050 of the Education Code is not warranted, and there is no foster parent to exercise the authority granted by Section 56055 of the Education Code, the court may, with the input of any interested person, make educational decisions for the child.*

All educational and school placement decisions shall seek to ensure that the child is in the least restrictive educational programs and has access to the academic resources, services, and extracurricular and enrichment activities that are available to all pupils. In all instances, educational and school placement decisions shall be based on the best interests of the child.

(b) Subdivision (a) does not limit the ability of a parent to voluntarily relinquish his or her child to the State Department of Social Services or to a licensed county adoption agency at any time while the child is a dependent child of the juvenile court, if the department or agency is willing to accept the relinquishment.

(c) A dependent child may not be taken from the physical custody of his or her parents or guardian or guardians with whom the child resides at the time the petition was initiated, unless the juvenile court finds clear and convincing evidence of any of the following:

(1) There is *or would be* a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor ~~or would be~~ if the minor were returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parents' or guardians' physical custody. The fact that a minor has been adjudicated a dependent child of the court pursuant to subdivision (e) of Section 300 shall constitute prima facie evidence that the minor cannot be safely left in the custody of the parent or guardian with whom the minor resided at the time of injury. The court shall consider, as a reasonable means to protect the minor, the option of removing an offending parent or guardian from the home. The court shall also consider, as a reasonable means to protect the minor, allowing a nonoffending parent or guardian to retain custody as long as that parent or guardian presents a plan acceptable to the court demonstrating that he or she will be able to protect the child from future harm.

(2) The parent or guardian of the minor is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period specified in Section 366.26, the minor may be declared permanently free from their custody and control.

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward himself or herself or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the physical custody of his or her parent or guardian.

(4) The minor or a sibling of the minor has been sexually abused, or is deemed to be at substantial risk of being sexually

1 abused, by a parent, guardian, or member of his or her household,  
2 or other person known to his or her parent, and there are no  
3 reasonable means by which the minor can be protected from  
4 further sexual abuse or a substantial risk of sexual abuse without  
5 removing the minor from his or her parent or guardian, or the  
6 minor does not wish to return to his or her parent or guardian.

7 (5) The minor has been left without any provision for his or  
8 her support, or a parent who has been incarcerated or  
9 institutionalized cannot arrange for the care of the minor, or a  
10 relative or other adult custodian with whom the child has been  
11 left by the parent is unwilling or unable to provide care or  
12 support for the child and the whereabouts of the parent is  
13 unknown and reasonable efforts to locate him or her have been  
14 unsuccessful.

15 (d) The court shall make a determination as to whether  
16 reasonable efforts were made to prevent or to eliminate the need  
17 for removal of the minor from his or her home or, if the minor is  
18 removed for one of the reasons stated in paragraph (5) of  
19 subdivision (c), whether it was reasonable under the  
20 circumstances not to make any of those efforts. The court shall  
21 state the facts on which the decision to remove the minor is  
22 based.

23 (e) The court shall make all of the findings required by  
24 subdivision (a) of Section 366 in either of the following  
25 circumstances:

26 (1) The minor has been taken from the custody of his or her  
27 parent or guardian and has been living in an out-of-home  
28 placement pursuant to Section 319.

29 (2) The minor has been living in a voluntary out-of-home  
30 placement pursuant to Section 16507.4.

31 *SEC. 7. Section 391 of the Welfare and Institutions Code is*  
32 *amended to read:*

33 391. At any hearing to terminate jurisdiction over a  
34 dependent child who has reached the age of majority the county  
35 welfare department shall do both of the following:

36 (a) Ensure that the child is present in court, unless the child  
37 does not wish to appear in court, or document efforts by the  
38 county welfare department to locate the child when the child is  
39 not available.



(b) Submit a report verifying that the following information, documents, and services have been provided to the child:

(1) Written information concerning the child's dependency case, including his or her family history and placement history, the whereabouts of any siblings under the jurisdiction of the juvenile court, unless the court determines that sibling contact would jeopardize the safety or welfare of the sibling, directions on how to access the documents the child is entitled to inspect under Section 827, and the date on which the jurisdiction of the juvenile court would be terminated.

(2) The following documents, where applicable: social security card, certified birth certificate, *health and education summary as described in subdivision (a) of Section 16010*, identification card, as described in Section 13000 of the Vehicle Code, death certificate of parent or parents, and proof of citizenship or residence.

(3) Assistance in completing an application for Medi-Cal or assistance in obtaining other health insurance; referral to transitional housing, if available, or assistance in securing other housing; and assistance in obtaining employment or other financial support.

(4) Assistance in applying for admission to college or to a vocational training program or other educational institution and in obtaining financial aid, where appropriate.

(5) Assistance in maintaining relationships with individuals who are important to a child who has been in out-of-home placement in a group home for six months or longer from the date the child entered foster care, based on the child's best interests.

(c) The court may continue jurisdiction if it finds that the county welfare department has not met the requirements of subdivision (b) and that termination of jurisdiction would be harmful to the best interests of the child. If the court determines that continued jurisdiction is warranted pursuant to this section, the continuation shall only be ordered for that period of time necessary for the county welfare department to meet the requirements of subdivision (b). This section shall not be construed to limit the discretion of the juvenile court to continue jurisdiction for other reasons. The court may terminate jurisdiction if the county welfare department has offered the

1 required services, and the child either has refused the services or,  
2 after reasonable efforts by the county welfare department, cannot  
3 be located.

4 (d) The Judicial Council shall develop and implement  
5 standards, and develop and adopt appropriate forms, necessary to  
6 implement this section.

7 *SEC. 8. If the Commission on State Mandates determines that*  
8 *this act contains costs mandated by the state, reimbursement to*  
9 *local agencies and school districts for those costs shall be made*  
10 *pursuant to Part 7 (commencing with Section 17500) of Division*  
11 *4 of Title 2 of the Government Code.*